

Message Text

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ACTION TRSE-00

INFO OCT-01 EUR-12 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15
STR-04 ITC-01 USIA-06 PRS-01 SP-02 FEAE-00 OMB-01
AF-08 ARA-06 EA-07 NEA-10 /131 W
-----251833Z 039369 /44

R 251617Z JAN 77
FM USMISSION GENEVA
TO SECSTATE WASHDC 4744
INFO AMEMBASSY BRUSSELS
AMEMBASSY OTTAWA
AMEMBASSY PARIS
AMEMBASSY THE HAGUE
USMISSION EC BRUSSELS

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E.O. 11652: N/A
TAGS: ETRD, GATT, EEC, BE, CA, FR, NL
SUBJ: FOIA REQUEST FOR U.S. BRIEF ON DISC

REF: STATE 015412

1. WE INFORMED LOCAL EC COMMISSION REP (LUYTEN) JAN 25 OF
TREASURY PLANS TO RELEASE US DISC BRIEF, AND SOUGHT
ACQUIESCENCE, USING ARGUMENTS SET FORTH REFTEL.

2. LUYTEN REACTION WAS THAT THIS WOULD SET VERY BAD
PRECEDENT FOR GATT, INCLUDING FOR DISPUTE SETTLEMENT PRO-
CEDURES. IN FUTURE HOW COULD ANYONE CONSIDER ANYTHING IN
GATT AS CONFIDENTIAL? WE POINTED OUT PANEL CHAIRMAN HAD
ASKED THAT SUBMISSIONS BE CONSIDERED CONFIDENTIAL "AS LONG
AS MATTER IS UNDER CONSIDERATION" AND THAT NOW THAT PANELS
HAVE SUBMITTED REPORTS (AND THEY HAVE BEEN MADE PUBLIC)

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WE CAN SEE NO REASON WHY SUBMISSIONS CANNOT BE RELEASED
BY THEIR AUTHORS. WE ALSO POINTED OUT EC FREQUENTLY
GIVES COMPLETE PRESS BRIEFING (INCLUDING TEXT) OF THEIR
INTERVENTIONS IN GATT COUNCIL. IN RESPONSE TO FIRST POINT,
HIS RESPONSE WAS THAT DISC QUESTION WAS STILL VERY MUCH
"UNDER CONSIDERATION" IN GATT. ON SECOND POINT, HE
SOMEWHAT LAMELY RESPONDED THAT COUNCIL MEETINGS INVOLVE

HUNDREDS OF PEOPLE, AND THUS ESSENTIALLY DIFFERENT FROM PANELS. ON PANELS, HE CLAIMED THERE HAD BEEN NO PRECEDENT FOR RELEASE OF SUBMISSIONS. "CHICKEN WAR" PANEL SUBMISSION, FOR EXAMPLE, NEVER PUBLISHED, HE CLAIMED. THUS U.S. ACTION WOULD BE NOVEL AND DESTRUCTIVE.

3. WE NOTED THAT WE CONTINUED HOPE THAT SUBMISSIONS BY OTHERS TO PANEL WOULD ALSO BE RELEASED WITH THEIR CONSENT BUT THAT IMMEDIATE ISSUE WE WERE DISCUSSING CONCERNED ONLY OUR SUBMISSION. WE ASKED WHETHER DELETION OF REFERENCES TO EC ARGUMENTS (PARA 4 REFTEL) WOULD ALTER HIS ATTITUDE TO U.S. ACTION. HE RESPONDED NEGATIVELY, BUT SUBSEQUENT DISCUSSION INDICATED HE DID NOT CONSIDER ANYONE COULD OBJECT IF U.S. RELEASED A PAPER SETTING FORTH ARGUMENTS WE HAD ADVANCED TO PANEL, BUT WHICH DID NOT DESCRIBE ITSELF AS TEXT OF OUR SUBMISSION TO PANEL, AND WHICH DID NOT IDENTIFY ITSELF AS U.S. SUBMISSION BY CROSS-REFERENCES TO SUBMISSIONS OF OTHERS.

4. CONCLUSION: IF WE COULD RELEASE OUR PAPER RETAINING PRESENT TITLE (WHICH DOES NOT IDENTIFY IT AS PANEL SUBMISSION), WITHOUT ANY ACTION NOW DESCRIBING IT AS PAPER ACTUALLY SUBMITTED TO GATT PANEL, AND WITH DELETION OF SPECIFIC REFERENCES TO EC ARGUMENTS ON PAGES 10 AND 54-57, WE DO NOT BELIEVE THAT GATT RULES OR PRACTICES WOULD BE CONTRAVENED NOR THAT EC COULD OR WOULD MAKE ISSUE OF IT.

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5. TO AVOID FUTURE PROBLEMS OF THIS TYPE, SYGGET THAT IN ANY FUTURE PANELS WE PARTICIPATE IN, BEGINNING WITH MIPS AND NFD, THAT AT OUTSET U.S. INDICATE REQUIREMENTS OF OUR FOIA, AND SEEK ALL-ROUND AGREEMENT ON GROUND RULES RE RELEASE OF SUBMISSIONS.

6. ON SUBSTANCE OF FUTURE GATT ACTION ON DISC AND FRENCH, BELGIAN, DUTCH TAX PRACTICES, LUYTEN ARGUED VIGOROUSLY THAT THESE CASES HAD NO RELATIONSHIP. IN RESPONSE TO OUR REBUTTAL, HE SAID IF U.S. INSISTED ON LINKING ISSUES, OTHERS MIGHT START DOING SAME, AND IF FOR INSTANCE ZENITH CASE DECIDED AGAINST USG AND APPRAISAL WITHHELD ON IMPORTS, OTHERS MIGHT ARGUE THAT IN SUCH SITUATION THEY COULDN'T PURSUE MTN, COULDN'T PARTICIPATE IN MIPS PANEL, ETC. (WHILE THIS PROBABLY JUST FLIGHT OF RHETORIC, WE REPORTING IT AS POSSIBLE VIEW OF SOME IN EC AS TO HOW EC MIGHT CAPITALIZE ON ZENITH.) HE ALSO ARGUED THAT PANEL FINDINGS ON FRANCE, BELGIUM, NETHERLANDS SHOWED THAT PANEL

"GATT EXPERTS" WERE NOT REAL EXPERTS, AND THAT THEY
HAD IGNORED IMPORTANT GATT BACKGROUND. HE
REFUSED TO BE DRAWN OUT, BUT LEFT IMPRESSION EC FEELS
IT HAS IMPORTANT NEW ARGUMENT TO CONTEXT PANEL CON-
CLUSIONS RE TAX PRACTICES THOSE COUNTRIES.

7. SINCE EMBASSIES PARIS, BRUSSELS, HAGUE AP-
PROACHING HOST GOVERNMENTS ON THIS MATTER, WE WILL NOT
APPROACH LOCAL DELEGATIONS OF THOSE COUNTRIES
HERE UNTIL WE HAVE SEEN REPORTS. WE WERE PREVIOUSLY
TOLD BY LOCAL BELGIAN GATT OFFICER, HOWEVER, THAT
BELGIUM HAD NO PROBLEMS WITH RELEASE OF ANY OF PANEL
DOCUMENTS.CATTO

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Message Attributes

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Control Number: n/a
Copy: SINGLE
Sent Date: 25-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
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